

KAUA'I PLANNING COMMISSION
CONTESTED CASE CALENDAR
February 28, 2017

The contested case calendar of the Planning Commission of the County of Kaua'i was called to order by Vice Chair Keawe 9:44 a.m., at the Līhu'e Civic Center, Mo'ikeha Building, in meeting room 2A-2B. The following Commissioners were present:

Mr. Wayne Katayama
Mr. Mahoney
Mr. Roy Ho
Ms. Donna Apisa

Absent and Excused:
Chair Keawe
Ms. Glenda Nogami Streufert
Ms. Kanoe Ahuna

The following staff members were present: Planning Department – Michael Dahilig, Leslie Takasaki; Office of the County Attorney – Deputy County Attorney Jodi Higuchi Sayegusa; Deputy County Attorney Peter Morimoto, County Attorney Mauna Kea Trask; Office of Boards and Commissions – Administrator Jay Furfaro, Commission Support Clerk Lani Agoot

Discussion of the meeting, in effect, ensued:

CALL TO ORDER

Vice Chair Ho called the meeting to order 9:44 a.m.

CALENDAR

Status and Scheduling of the following matters on the Planning Commission Contested Case Calendar of 12/13/16 and deferred on 12/13/16, pertaining to:

Petitioners Kirby B. Guyer and Milton Searles' Motion to Disqualify hearing Officer, Declaration Jonathan J. Chun; Certificate of Service (related to Application for a Use Permit, Special Management Area Permit and Class IV Zoning Permit on Property Situated at Haena, Kauai, Hawaii identified by Kauai TMK No. (4) 5-8-012:22 containing a total area of 11,827 sq. ft.) [Deferred 12/31/16.]

- a. Respondent Planning Department of the County of Kauai's Memorandum of Law in Opposition to Petitioners Kirby B. Guyer and Milton Searles' Motion to Disqualify Hearing Officer filed September 2, 2016; Affidavit of Ernest W. Barreira; Exhibits "1" and "2"; Certificate of Service
- b. Respondent Planning Department of the County of Kauai's Amendment to its

- Memorandum in Opposition to Petitioners Kirby B. Guyer and Milton Searles' Motion to Disqualify Hearing Officer filed September 2, 2016; Affidavit of Ann Marie K. Wooton; Exhibit "1" and Exhibit "2"; Certificate of Service
- c. Minute Order Regarding Petitioners Kirby B. Guyer and Milton Searles Motion to Disqualify Hearing Officer; Certificate of Service
- d. Barbara Robeson and Caren Diamond, Pro Se Intervenors, Requesting a Joinder of Parties with Respondent Planning Department of the County of Kauai Memorandum in Opposition to Petitioners Kirby B. Guyer and Milton Searles' Motion to Disqualify Hearing Officer Filed September 2, 2016 and Certificate of Service
- e. Letter (2/10/17) from Jonathan Chun, Esq., requesting deferral of matter

Petitioners John R. Hoff Trust and Lorna E. Hoff Trusts' Motion to Disqualify Hearing Officer; Declaration of Jonathan J. Chun; Certificate of Service (related to Appeal Decision of Planning Director Relating to the Notice of Violation and Order to Pay Fines Related to Use Permit U-2015-28, Special Permit SP-2015-9 and Class IV Zoning Permit Z-IV-2015-29 on Property Situated at Lawai, Kauai, Hawaii, identified by Kauai TMK No. (4) 2-5-005:080 CPR Unit 1 containing a total area of 1.032 acres) (contested case files CC-2015-18, CC-2016-7) [Deferred 12/31/16.]

- a. Planning Department of the County of Kauai's Memorandum of Law in Opposition to Petitioners John R. Hoff, Trust and Lorna E. Hoff, Trust's Motion to Disqualify Hearing Officer filed September 2, 2016; Affidavit of Ernest W. Barreira; Exhibits "1" and "2"; Certificate of Service
- b. Minute Order Regarding Petitioners John F. Hoff Trust and Lorna E. Hoff Trusts' Motion to Disqualify Hearing Officer; Certificate of Service
- c. Planning Department of the County of Kauai's Amendments to its Memorandum of Law in Opposition to Petitioners John R. Hoff, Trust and Lorna E. Hoff, Trusts' Motion to Disqualify Hearing Officer Filed September 2, 2016; Affidavit of Ernest Barreira; Exhibits 1-2; Affidavit of Ann Marie K. Wooton; Certificate of Service
- d. Letter (2/10/17) from Jonathan Chun, Esq., requesting deferral of matter

Petitioners Lloyd R. Fischer and Shirley E. Fischer's Motion to Disqualify Hearing Officer; Declaration of Jonathan J. Chun; Certificate of Service (related to Petition to Appeal Decision of Planning Director Relating to the Forfeiture of Non-Conforming Use Certificate TVNCU #5003 for Property Situated at Kekaha, Kauai, Hawaii, identified by TMK No. (4) 1-3-001:88 containing a total area of 12,453 sq. ft. (contested case files CC-2016-9, CC-2016-10) [Deferred 12/31/16.]

- a. Respondent Planning Departments of the County of Kauai's Memorandum in Opposition to Petitioners Lloyd R. Fischer's and Shirley E. Fischer's; Brysone K. Nishimoto's and Catherine J. Nishimoto's; and Todd Schirm's Motion to Disqualify Hearing Officer filed September 2, 2016; Affidavit of Ernest W. Barreira; Exhibit "1" and Exhibit "2"; Certificate of Service
- b. Minute Order Regarding Petitioners Lloyd R. Fischer and Shirley E. Fischer's Motion to Disqualify Hearing Officer; Certificate of Service
- c. Respondent Planning Department of the County of Kauai' Amendments to its

Memorandum in Opposition to Petitioners Lloyd R. Fischer's and Shirley E. Fischer's; Brysone K. Nishimoto's and Catherine J. Nishimoto's; and Todd Schirm's Motion to Disqualify Hearing Officer, filed September 2, 2016; Affidavit of Ernest W. Barreira; Exhibits "1-2"; Affidavit of Ann Marie K. Wooton; Certificate of Service

- d. Letter (2/10/17) from Jonathan Chun, Esq., requesting deferral of matter

Petitioner Todd Schirm's Motion to Disqualify Hearing Officer; Declaration of Jonathan J. Chun; Certificate of Service (related to Petition to Appeal Decision of Planning Director Relating to the Forfeiture of TVNCU # 5138 (Hale Cook) for Failure to Renew for Property Situated in Wainiha, Kauai, Hawaii, identified by Kauai TMK No. (4) 5-8-009:8 CPR Units 1 and 2 containing a combined total area of 11,250.0 sq. ft.) (contested case file CC-2015-24) [Deferred 12/31/16.]

- a. Respondent Planning Department of the County of Kauai's Memorandum in Opposition to Petitioners Lloyd R. Fischer's and Shirley E. Fischer's; Brysone K. Nishimoto's and Catherine J. Nishimoto's; and Todd Schirm's Motion to Disqualify Hearing Officer, filed September 2, 2016; Affidavit of Ernest W. Barreira; Exhibit "1" and Exhibit "2"; Certificate of Service
- b. Minute Order Regarding Petitioner Todd Schirm's Motion to Disqualify Hearing Officer; Certificate of Service
- c. Respondent Planning Department of the County of Kauai's Amendments to its Memorandum in Opposition to Petitioners Lloyd R. Fischer's and Shirley E. Fischer's; Brysone K. Nishimoto's and Catherine J. Nishimoto's; and Todd Schirm's Motion to Disqualify Hearing Officer, filed September 2, 2016; Affidavit of Ernest W. Barreira; Exhibits "1-2"; Affidavit of Ann Marie K. Wooton; Certificate of Service
- d. Letter (2/10/17) from Jonathan Chun, Esq., requesting deferral of matter

Petitioners Brysone K. Nishimoto and Catherine J. Nishimoto's Motion to Disqualify Hearing Officer; Declaration of Jonathan J. Chun; Certificate of Service (related to Petition to Appeal Decision of Planning Director Relating to Forfeiture of TVNCU # 1171 (Ivy's Place) for Failure to Renew for Property Situated in Wainiha, Kauai, Hawaii, identified by Kauai TMK No. (4) 5-8-004:26 containing 8.343 acres) (contested case file CC-2015-23) [Deferred 12/31/16.]

- a. Respondent Planning Department of the County of Kauai's Memorandum in Opposition to Petitioners Lloyd R. Fischer's and Shirley E. Fischer's; Brysone K. Nishimoto's and Catherine J. Nishimoto's; and Todd Schirm's Motion to Disqualify Hearing Officer filed September 2, 2016; Affidavit of Ernest W. Barreira; Exhibit "1" and Exhibit "2"; Certificate of Service
- b. Minute Order Regarding Petitioners Brysone K. Nishimoto and Catherine J. Nishimoto's Motion to Disqualify Hearing Officer; Certificate of Service
- c. Respondent Planning Department of the County of Kauai's Amendment to its Memorandum in Opposition to Petitioners Lloyd R. Fischer's and Shirley E. Fischer's; Brysone K. Nishimoto's and Catherine J. Nishimoto's; and Todd Schirm's Motion to Disqualify Hearing Officer, filed September 2, 2016; Affidavit of Ernest W. Barreira; Exhibits "1-2"; Affidavit of Ann Marie K.

Wooton; Certificate of Service

- d. Letter (2/10/17) from Jonathan Chun, Esq., requesting deferral of matter

Petitioner Michael Chandler's Motion to Disqualify Hearing Officer; Declaration of Jonathan J. Chun; Certificate of Service (related to Petition to Appeal Decision of Planning Director Relating to the Forfeiture of TVNCU #4222 (Hale O Lani) Related to Special Permit SP-2012-1 for Failure to Renew for Property Situated at 3239 A Kalihiwai Road, Kilauea, Kauai, Hawaii, identified by TMK No. (4) 5-3-003:45 containing an area of 74,923 sq. ft.) (contested case file CC-2016-4) [Deferred 12/31/16.]

- a. Respondent Planning Department of the County of Kauai's Memorandum in Opposition to Petitioners Michael Chandler's and John and Shannon Wark's Motion to Disqualify Hearing Officer, filed September 2, 2016; Affidavit of Ernest W. Barreira; Exhibit "1" and Exhibit "2"; Certificate of Service
- b. Minute Order Regarding Petitioner Michael Chandler's Motion to Disqualify Hearing Officer; Certificate of Service
- c. Respondent Planning Department of the County of Kauai's Amendments to its Memorandum in Opposition to Petitioners Michael Chandler's and John and Shannon Wark's Motion to Disqualify Hearing Officer, filed September 2, 2016; Affidavit of Ernest W. Barreira; Exhibits "1-2"; Affidavit of Ann Marie K. Wooton; Certificate of Service
- d. Letter (2/10/17) from Jonathan Chun, Esq., requesting deferral of matter

Petitioners John Wark and Shannon Wark's Motion to Disqualify Hearing Officer; Declaration of Jonathan J. Chun; Certificate of Service (related to Petition to Appeal Decision of Planning Director Relating to Forfeiture of TVNC #4219 (Anini Kai) related to Special Permit SP-2011-13 for Failure to Renew for Property Situated at 3525 Anini Road, Kilauea, Kauai, Hawaii identified by TMK No. (4) 5-3-004:29 containing an area of 13,608 sq. ft.) (contested case file CC-2016-5) [Deferred 12/31/16.]

- a. Minute Order Regarding Petitioners John Wark and Shannon Wark's Motion to Disqualify Hearing Officer; Certificate of Service
- b. Respondent Planning Department of the County of Kauai's Memorandum in Opposition to Petitioners Michael Chandler's and John and Shannon Wark's Motion to Disqualify Hearing Officer, filed September 2, 2016; Affidavit of Ernest W. Barreira; Exhibit "1" and Exhibit "2"; Certificate of Service
- c. Respondent Planning Department of the County of Kauai's Amendments to its Memorandum in Opposition to Petitioners Michael Chandler's and John and Shannon Wark's Motion to Disqualify Hearing Officer, filed September 2, 2016; Affidavit of Ernest W. Barreira; Exhibits "1-2"; Affidavit of Ann Marie K. Wooton; Certificate of Service
- d. Letter (2/10/17) from Jonathan Chun, Esq., requesting deferral of matter

Petitioners Parnell H. Kaiser and Michele L. Kaiser's Motion to Disqualify Hearing Officer; Declaration of Jonathan J. Chun; Certificate of Service (related to Application for a Use Permit, Special Management Area Permit and Class IV Zoning Permit on Property Situated at Hanalei, Kauai, Hawaii, identified by Kauai TMK No. (4) 5-5-004:15 containing a total area of 6,046 sq. ft.) (contested case file CC-2015-15) [Deferred

12/31/16.]

- a. Minute Order Regarding Petitioners Parnell H. Kaiser and Michele L. Kaiser's Motion to Disqualify Hearing Officer; Certificate of Service
- b. Planning Department of the County of Kauai's Memorandum of Law in Opposition to Petitioners Parnell H. Kaiser and Michele L. Kaiser's Motion to Disqualify Hearing Officer filed September 2, 2016; Affidavit of Ernest W. Barreira; Exhibits "1" and "2"; Certificate of Service
- c. Planning Department of the County of Kauai's Amendments to its Memorandum of Law in Opposition to Petitioners Parnell H. Kaiser and Michele L. Kaiser's Motion to Disqualify Hearing Officer; Affidavit of Ernest W. Barreira; Affidavit of Ann Marie K. Wooton; Certificate of Service
- d. Letter (2/10/16) from Jonathan Chun, Esq., requesting deferral of matter

Petitioners Toni Sutherland's and Alta Management Services, LLC's Motion to Disqualify Hearing Officer; Declaration of Jonathan J. Chun; Certificate of Service (related to Appeal of the Planning Director's Decision Related to Notice and Order to Pay Fines for the Continued Operation of an unpermitted Vacation Rental for Property Situated in Haena, Kauai, Hawaii, identified by Kauai TMK No. (4) 5-8-011:59, Unit A, and containing a total area of 6,250 sq. ft.) (contested case file CC-2016-8) [Deferred 12/31/16.]

- a. Minute Order Regarding Petitioners Toni Sutherland's and Alta Management Services, LLC's Motion to Disqualify Hearing Officer; Certificate of Service
- b. Planning Department of the County of Kauai's Memorandum of Law in Opposition to Petitioners Toni Sutherland and Alta Management Services, LLC's Motion to Disqualify Hearing Officer filed September 2, 2016; Affidavit of Ernest W. Barreira; Exhibits 1-2; Certificate of Service
- c. Planning Department of the County of Kauai's Amendment to its Memorandum of Law in Opposition to Petitioners Toni Sutherland and Alta Management Services, LLC's Motion to Disqualify Hearing Officer filed September 2, 2016; Affidavit of Ernest W. Barreira; Exhibits 1-2; Affidavit of Ann Marie K. Wooton; Certificate of Service
- d. Letter (2/10/17) from Jonathan Chun, Esq., requesting deferral of matter

Motion to Disqualify Hearing Officer; Certificate of Service (related to Appeal of Planning Director; and Application for a State Special Permit, etc. (Consolidated Cases) by Michael Levy and Alexis Boilini, Trustees of the Levy-Bolini Living Trust (contested case CC-2015-14, CC-2016-1) [Deferred 12/31/16.]

- a. Respondent Planning Department of the County of Kauai's Amendments to its Memorandum in Opposition to Appellants/Applicants' Levy-Bolini Trusts Motion to Disqualify Hearing Officer; Memorandum in Support of Motion; Declaration of Ann Wooton; Exhibits "A" - "B"; Certificate of Service
- b. Motion to Set Hearing on Motion to Disqualify Hearing Officer, and for Stay of Proceedings Pending its Resolution
- c. Minute Order Regarding Pending Prehearing Motions; Certificate of Service
- d. Amended and Supplemental Motion to Disqualify Hearing Officer; Certificate of Service

- e. Respondent Planning Department of the County of Kauai's Memorandum in Opposition to Petitioner's Amended and Supplemental Motion to Disqualify Hearing Officer; Affidavit of Ernest W. Barreira; Exhibits 1 and 2; Certificate of Service
- f. Respondent Planning Department of the County of Kauai's Amendment to its Memorandum in Opposition to Petitioners' Amended and Supplemental Motion to Disqualify Hearing Officer; Affidavit of Ann Marie K. Wooton; Certificate of Service

Petitioner's Steven and Eddi Henry Motion to Disqualify Hearing Officer; Certificate of Service (related to Petition for Appeal of Decision of Planning Director; and, Application for State Special Permit, etc.) (contested case file CC-2016-11) [Deferred 12/31/16.]

- a. Minute Order Regarding Petitioners Steven Henry and Eddi Henry's Motion to Disqualify Hearing Officer; Certificate of Service
- b. Planning Department of the County of Kauai's Memorandum of Law in Opposition to Petitioners Steven and Eddi Henry's Motion to Disqualify Hearing Officer, filed September 2, 2016; Affidavit of Myles Hironaka; Affidavit of Ann Marie K. Wooton; Certificate of Service

Petitioner's William I. Cowern and Catherine F. Cowern Motion to Disqualify Hearing Officer; Certificate of Service (related to Petition to Appeal Decision of Planning Director; and, Application for a State Special Permit, etc. (Consolidated Cases) (contested case files CC-2015-17, CC-2016-2) [Deferred 12/31/16.]

- a. Minute Order Regarding Petitioners William I. Cowern and Catherine F. Cowern's Motion to Disqualify Hearing Officer; Certificate of Service
- b. Planning Department of the County of Kauai's Memorandum of Law in Opposition to Petitioners William I. Cowern and Catherine F. Cowern's Motion to Disqualify Hearing Officer, filed September 2, 2016; Affidavit of Ernest W. Barreira; Exhibits 1-2; Affidavit of Ann Marie K. Wooton; Certificate of Service

Petitioner Anthony S. Bardin Motion to Disqualify Hearings Officer; Declaration of Sommerset K.M. Wong; Certificate of Service (related to Petition to Appeal Decision of Planning Director Relating to TVRNCU #1225 for Property Situated in Hanalei, Kauai, Hawaii, identified by Kauai TMK No. (4) 5-5-010: 39 containing 5,654 sq. ft.) (contested case file CC-2013-83) [Deferred 12/31/16.]

- a. Minute Order Regarding Petitioner's Motion to Disqualify Hearings Officer; Certificate of Service
- b. Planning Department of the County of Kauai's Memorandum of Law in Opposition to Petitioner Anthony S. Bardin's Motion to Disqualify Hearings Officer; Affidavit of Ann Marie K. Wooton; Certificate of Service

14. Petitioners Greg Allen, Sr., and Greg Allen, Jr. Motion to Disqualify Hearings Officer; Declaration of Sommerset K.M. Wong; Certificate of Service (related to Petition to Appeal of Violation and Levy of SMA Fines Involving Property Situated in Kilauea, Kauai, Hawaii, identified by Kauai TMK No. (4) 5-3-007:14, and containing a total area of 16,552.0 sq. ft.) (contested case file CC-2015-4) [Deferred 12/31/16.]

- a. Minute Order Regarding Petitioners Greg Allen, Sr., and Greg Allen, Jr.'s Motion to Disqualify Hearing Officer; Certificate of Service
- b. Planning Department of the County of Kauai's Memorandum in Opposition to Petitioner Greg Allen, Sr.'s Motion to Disqualify Hearing Officer, filed September 28, 2016; Affidavit of Ernest W. Barreira; Exhibits 1-2; Affidavit of Ann Marie K. Wooton; Certificate of Service

Petitioners Thomas J. Brooks and Jennifer S. Brooks' Motion to Disqualify Hearings Officer; Declaration of Jonathan J. Chun, Certificate of Service (1/30/17) (related to Petition to Appeal Decision of Planning Director Relating to the Forfeiture of Non-Conforming Use Certificate TVNCU #4291 (Pohaku), TMK No. (4) 5-8-008:021 Haena, Kauai.) (contested case file CC-2017-1) [Referred to Hearing Officer 1/24/17.]

- a. Minute Order Regarding Petitioners Thomas J. Brooks and Jennifer S. Brooks' Motion to Disqualify Hearing Officer, Certificate of Service (2/1/17)
- b. Letter (2/10/17) from Jonathan Chun, Esq., requesting deferral of matter.

Vice Chair Ho: This portion of the Planning Commission will be turned over to Mr. Peter Morimoto; he is going to set a date for our contested case hearings.

Mr. Peter Morimoto: For the record, Peter Morimoto, Deputy County Attorney. Is there anyone representing the petitioners in this matter?

Mr. Jonathan Chun: Jonathan Chun on behalf of some of the petitioners. Also I have been given authority for some of the Oahu attorneys to represent their clients regarding the scheduling of this matter.

Mr. Morimoto: Can you tell us which firms?

Mr. Chun: That would be Barry Edwards and Greg Kougal.

Mr. Morimoto: Who do they represent?

Mr. Chun: I'm not quite sure myself. Barry represents I think Greg Allen.

Mr. Morimoto: Are there any parties that are not represented by either you or the attorneys that gave you...?

Mr. Chun: Not that I know of.

Mr. Morimoto: In discussing this with Commission staff the date they are looking at is May 9th.

Mr. Mauna Kea Trask: For the record, Mauna Kea Trask, County Attorney on behalf of respondent Planning Department and also I have an agreement with the other Deputy County Attorneys assigned to their respective cases to appear on their behalf. And also for the record in specific reference to the Guyer and Searles permit request matter I was contact by Ms. Diamond today, she is on the western side of the Hanalei Bridge and given today's weather conditions

won't be able to attend, and Ms. Robeson is off island so they agreed for me to be present at this hearing on their behalf for scheduling purposes. And correct, I believe all parties have agreed May 9th, the second Tuesday in May is good with our schedule.

Mr. Morimoto: Great, can we have a motion from the Commission to that effect?

Mr. Mahoney: Move to May 9th for further hearing.

Ms. Apisa: Second.

Mr. Chun: If I may, that is correct, May 9th is fine because there was an email circulated between all the attorneys and everybody responded from the County Attorney's office saying the first meeting in May would be acceptable. I also got an email from Mr. Kougal and Mr. Edwards saying that is okay with their clients.

Mr. Trask: For the record, Mauna Kea Trask, County Attorney. May I have your permission to approach the Chair?

Mr. Morimoto: Yes.

Mr. Trask: Just for the record I have handed a letter to Chair Ho, pursuant to rule 1-613.A, we are making per this request a request for a subpoena to have Ian Jung come testify, the reason stated therein. In brief, Mr. Chun asked for a subpoena request for myself or my designee to speak about various procurement matters. If you look in the record it appears that previously employed Deputy County Attorney Ian Jung actually handled the procurement of the hearings officers in these cases and that would be my designee if he was still a Deputy County Attorney. Given that he is no longer employed with the County I am requesting for the record that a subpoena be issued for him. We have talked about this previously amongst the parties and it is my understanding it is not really a problem at this point but I will let Mr. Chun give his manao.

Mr. Chun: We understand the County's reason for subpoenaing Mr. Jung on this matter and that is not contested or an issue with us. However I wanted to bring this matter to the attention of the Commission based on the scheduling issues and that is if in fact Mr. Jung is going to be subpoenaed and if in fact he is going to be called to testify in the first week in May, May 9th, that raises a question regarding our participation in this matter under the Rules of Professional Conduct. And if so and if we can't resolve that then we will have to withdraw our representation and if that happens the clients that we do represent will have to find other counsel. If they find other counsel and they are not able to meet the first week in May I cannot make any representation that they will be able to participate on May 9th. Because if that happens, I want to make sure everybody understands that there might be a request later on from another attorney representing our clients saying they are not available. I just didn't want that to be a surprise to anybody, come the first week in May.

Mr. Morimoto: So Mr. Chun, are you saying that if Mr. Jung is subpoenaed your firm will be withdrawing or you are going to determine whether or not you need to withdraw?

Mr. Chun: I am going to be consulting with the Office of Disciplinary Counsel to determine what can and cannot be done. I just got this today and I will be calling them up and finding out what their opinion would be so I don't know. I have no idea what their opinion would be but I wanted to bring this in good faith to the Commission to make sure you are aware of that issue so in the event the DC says we could not participate, I will have to find another attorney to represent them. If that attorney cannot make the first meeting in May they will have to do what they will have to do. But like I said I didn't want that to be a surprise to anybody so I wanted to bring that to the Commission's attention as soon as I could.

Mr. Morimoto: Alright. Can we have a vote on the motion?

Vice Chair Ho: Could you restate your motion please?

Mr. Mahoney: Move to continue the hearing on May 9th.

Mr. Morimoto: This is with regard to all petitioners.

Mr. Mahoney: All petitioners.

Ms. Apisa: Second.

Vice Chair Ho: The motion has been made and seconded, any discussion from the Commissioners?

Mr. Katayama: At this point we could try these individually so if in the event Mr. Chun's firm is precluded from representing the cases that are represented by other counsel could proceed on the 9th?

Mr. Morimoto: My understanding is that the 9th will be to determine whether or not Mr. Kimura can continue as the hearings officer and once that decision is made then scheduling will proceed, depending on what the decision is, scheduling may proceed with the other petitioners that are not represented by Belles Graham.

Mr. Katayama: So the issue of their participation really doesn't impact the 9th other than their cases would not be bundled with those that are represented by other counsel.

Mr. Morimoto: Right, scheduling wise the Commission could proceed to decide the hearings officer issue on the 9th with regard to all parties that are not represented by the Belles Graham firm.

Vice Chair Ho: Further discussion, call for the vote, all those in favor. (Unanimous voice vote) Motion carried 4:0.

Chair Ho recessed this portion of the meeting at 9:52 a.m.

Respectfully submitted by:



Lani Agoot
Commission Support Clerk

() Approved as circulated (add date of meeting approval)

() Approved as amended. See minutes of _____ meeting.